

UNITED STATES DISTRICT COURT
For the District of Massachusetts

ITV DIRECT, INC.,)
)
Plaintiff,)
)
v.)
)
HEALTHY SOLUTIONS, LLC, ET. AL.,)
)
Defendants.)
)
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CAPPSEALS, INC.,)
)
Plaintiff-in-Intervention)
)
v.)
)
HEALTHY SOLUTIONS, LLC., d/b/a)
DIRECT BUSINESS CONCEPTS; ITV)
DIRECT, INC. AND DIRECT)
FULFILLMENT, LLC.)
)
Intervenor-Defendants.)
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C. A. No. 04-CV10421-JLT

CAPPSEALS, INC.'S MOTION FOR SUMMARY JUDGMENT

Plaintiff-in-Intervention, Cappseals, Inc. (“Cappseals”), respectfully moves for summary judgment on its Reach and Apply Count pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1. Cappseals has already obtained a judgment against Healthy Solutions, LLC (“Healthy Solutions”) for approximately \$900,000 (Docket No. 91). Additionally, ITV Direct, Inc. (“ITV”) has stipulated to numerous facts demonstrating its debt to Healthy Solutions in the amount of \$1,821,864 (Docket No. 113).

Accordingly, as discussed in more detail within its Memorandum of Law submitted

herewith, Cappseals is entitled to judgment as a matter of law against ITV on its reach and apply claim as, by statute, the undisputed debt owed by ITV to Healthy Solutions can be used to satisfy the judgment debt Healthy Solutions owes to Cappseals.

In addition to Cappseals' Memorandum of Law, Cappseals has also submitted herewith a Concise Statement of Material Facts, and, the Affidavit of Scott A. Silverman in further support of its motion.

WHEREFORE, Cappseal's Motion for Summary Judgment should be GRANTED and judgment should be issued on its reach and apply claim against ITV.

Respectfully Submitted,
Cappseals, Inc.
By its attorneys,

/s/ Scott A. Silverman

Daniel J. Kelly, BBO # 553926

dkelly@ghlaw.com

Scott A. Silverman, BBO # 638087

ssilverman@ghlaw.com

Peter Antonelli, BBO # 661526

pantonelli@ghlaw.com

Gadsby Hannah LLP

225 Franklin Street

Boston, MA 02110

(617) 345-7000

June 6, 2005

Local Rule 7.1 Certification

I, Scott A. Silverman, counsel for moving party Cappseals, Inc., hereby certify that I have conferred with opposing counsel in a good faith attempt to resolve or narrow the issues raised in this motion, but have been unable to do so.

/s/ Scott A. Silverman

Scott A. Silverman

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing Motion for Summary Judgment was served on the foregoing attorneys of record pursuant to Fed. R. Civ. P. 5 as follows:

Via electronic notification:

Peter S. Brooks pbrooks@seyfarth.com

Susan W. Gelwick sgelwick@seyfarth.com

Dustin F. Hecker dhecker@pbl.com

Christopher F. Robertson crobertson@seyfarth.com

Becky Christensen bvc@ocmplaw.com

/s/ Scott A. Silverman

Daniel J. Kelly BBO# 553926

dkelly@ghlaw.com

Scott A. Silverman, BBO #638087

ssilverman@ghlaw.com

Gadsby Hannah LLP

225 Franklin Street

Boston, MA 02110

(617) 345-7000

DATED: June 6, 2005